

II. Remarks

A. Status of the claims

Claims 1-9, 11-13, 15-16 and 18-21 are pending. Claims 1 and 21 have been amended. Support for amended claims 1 and 21 can be found, for example, in the specification at page 11, lines 17-19, page 12, lines 14-15, and page 13, lines 10-11. Claims 10, 14 and 17 have been canceled without prejudice. Applicants respectfully submit that no new matter has been introduced by these amendments.

B. Rejections under 35 U.S.C. § 103

In the Office Action, the Examiner rejected claims 1-3, 5, 7, 16, 17 and 21 under 35 U.S.C. § 103(a) as being unpatentable over T.E. Aronson (U.S. 3,36,323) in view of Ede, et al. (U.S. 7,051,771). The Examiner relies on the Aronson reference for disclosing an apparatus for filling with powder a container, “the apparatus including: a support for the container; a hopper having an outlet... and being selectively moveable relative to the support to position the outlet above the open end of a supported container..., a dispenser... for mechanically agitating the hopper and container so as to cause powder to be transferred from the hopper to the container..., and a controller... for operating the dispenser by at least a predetermined amount sufficient to ensure that powder in the container reaches a predetermined density....” The Examiner relies on the Ede reference for disclosing “another powder dispensing apparatus wherein the powder is aided through the apparatus by tapping or vibrating to ensure full flow of powder”

Applicants respectfully traverse this rejection. Amended independent claims 1 and 21 recite, in pertinent part, that ***the hopper and container are clamped together whereby the clamped hopper and container are tapped by at least a predetermined amount to cause powder to be transferred from the hopper to the container such that the powder in the container reaches a predetermined density.***

In contrast, as admitted by the Examiner, “the Aronson reference doesn’t disclose tapping of the hopper” (Office Action, page 3, first paragraph). Furthermore, nowhere does the Aronson reference teach or suggest that the hopper and container are clamped together whereby the clamped hopper and container are tapped by at least a predetermined amount to cause powder to be transferred from the hopper to the container such that the powder in the container reaches a predetermined density as claimed in the present invention. Accordingly, the subject-matter of amended claim 1 differs from the teachings of the Aronson reference in that:

- (i) the container and the hopper are clamped together: in Aronson, the neck of the container is urged onto the gasket carried by the funnel (see col.6, l.53), but the container and the funnel are not clamped together;
- (ii) mechanically agitating the hopper and container of the present invention includes tapping the clamped hopper and container.

Applicants respectfully submit that one skilled in the art would not be inclined to modify the method and apparatus of Aronson so as to adopt the solution of the invention because the method and the apparatus of Aronson aim at filling containers with large amounts of powder in a minimum of time and with a minimum of dusting (see col.1, l. 48-50 and 60-61). In contrast, the method and apparatus of the present invention aim at better controlling the density of powder filled in the container. Therefore, one skilled in the art could not find in Aronson any inclination to adopt the “tapping” method.

The Ede reference does not cure the deficiencies of the Aronson reference. The Ede reference discloses a method and apparatus for introducing powder into a pocket. The method requires the use of “a dosator having an elongate cavity with an open end and a plunger opposite the open end moveable along the cavity so as to define, between the plunger and the open end, a space of variable volume, the method including...inserting the open end into a source of powder so as to fill the volume with powder; positioning the open end over the pocket; ***driving the plunger so as to expel the powder from the open end into the pocket and compress it***

to a predetermined bulk density...." (Ede, et al., col. 1, line 62 to col. 3, line 7). Nowhere does the Ede reference teach or suggest "tapping" to fill the pocket with powder, let alone clamping a hopper and container together whereby the clamped hopper and container are tapped by at least a predetermined amount to cause powder to be transferred from the hopper to the container such that the powder in the container reaches a predetermined density as claimed in the present invention. The only mention of "tapping" in the Ede reference, relied upon by the Examiner, is in reference to situations wherein it may be necessary to augment the motion of the plunger to ensure the powder flows fully into the pocket. This augmentation step may be accomplished by "tapping or vibrating the dosator tube and allowing the powder to fall under gravity." (Ede, col. 9, lines 20-30). This augmentation step is not an alternative embodiment to the use of the plunger, rather it is a further step that may be required to facilitate the flow of powder if the plunger by itself is not sufficient.

In view of the above, claims 1-3, 5, 7, 16, 17 and 21 are not obvious under 35 U.S.C. § 103(a) over the Aronson reference in view of the Ede reference. Therefore, Applicants respectfully request that the Examiner's obviousness rejection be removed.

In the Office Action, the Examiner also rejected dependent claims 8, 9, 12, 13 and 15 under 35 U.S.C. § 103(a) as being unpatentable over T.E. Aronson (U.S. 3,36,323) in view of Ede, et al. (U.S. 7,051,771). For the reasons discussed above with regard to independent claim 1, claims 8, 9, 12, 13 and 15 are also not obvious over the Aronson reference in view of the Ede reference. Therefore, Applicants respectfully request that the Examiner's obviousness rejection be removed.

In the Office Action, the Examiner rejected claims 1-7 and 16-21 under 35 U.S.C. § 103(a) as being unpatentable over E.A. Wahl (U.S. 2,857,938) in view of Ede, et al. (U.S. 7,051,771).

The Examiner acknowledges that the Wahl reference “doesn’t disclose mechanical agitation being in the form of tapping” and relies on the Ede reference for disclosing a “powder dispensing apparatus wherein the powder is aided through the apparatus by tapping or vibrating to ensure full flow of the powder.” (See: Office Action, page 5). Applicants reiterate the arguments presented above with regard to the Ede reference. Accordingly, claims 1-7 and 16-21 are not obvious over the Wahl reference in view of the Ede reference. Therefore, Applicants respectfully request that the Examiner’s obviousness rejection be removed.

In the Office Action, the Examiner also rejected dependent claims 8, 9, 12, 13 and 15 under 35 U.S.C. § 103(a) as being unpatentable over E.A. Wahl (U.S. 2,857,938) in view of Ede, et al. (U.S. 7,051,771). For the reasons discussed above with regard to independent claim 1, claims 8, 9, 12, 13 and 15 are also not obvious over the Aronson reference in view of the Ede reference. Therefore, Applicants respectfully request that the Examiner’s rejection be removed.

In view of the foregoing amendment and remarks Applicants believe the application is in condition for allowance. An early and favorable response is respectfully solicited.

Respectfully submitted,

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